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Off-White LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OFF-WHITE LLC,

Plaintiff

v.

AEUNZN, CFOTOYO, CHUANTAIIDIANPU, DUOCAILE,
FANSON, FASHIONFRONT1, GREENLIFEPRO,
GUZDGD2, HAIBOYIBO, JEEPLO, JINTAI BUSINESS,
KINYBABY, LYCHEE TREE, MMANGO, ORAG, POLICO
STORE, PPTABOLD-US, PYGONG, SHENGSHENGKEJI,
TRUSTAND, XIAONINGGE, YANGKAIDIANQU,
YUNWU US, ZHENGGUOHUIFUZHUANGDIAN and 偶说
为商贸有限公司,

Defendants

CIVIL ACTION No.:
21-cv-9613 (JLR)

**DECLARATION OF
GABRIELA N. NASTASI IN
SUPPORT OF PLAINTIFF'S
MOTION TO REOPEN THE
CASE AND FOR A
TURNOVER ORDER**

DECLARATION OF GABRIELA N. NASTASI¹

I, Gabriela N. Nastasi, hereby declare as follows:

1. I am an attorney with the law firm of Epstein Drangel LLP, located at 60 East 42nd Street, Suite 1250, New York, New York 10165 and represent Plaintiff Off-White LLC (“Off-White”) in the above-referenced action. I make and submit this declaration in connection with Plaintiff’s motion to reopen the case and for a turnover order.
2. Amazon is owned by Amazon.com, Inc., a publicly traded company that allows manufacturers and other third-party merchants, like Defaulting Defendants, to advertise, distribute, offer for sale, sell and ship their retail products, which, upon information and belief, primarily originate from China, directly to consumers worldwide and specifically to consumers residing in the U.S., including New York.
3. Amazon is recognized as one of the leaders of the worldwide e-commerce and digital retail market. Sales to the U.S. make up a significant percentage of the business done on Amazon.² As of July 8, 2024, Amazon had a market capital of \$2.07 trillion, making it the fifth most valuable company in the U.S.³
4. Amazon aggressively uses the Internet and television, to market itself and the products offered for sale and/or sold by its third-party merchant users to potential consumers, particularly in the U.S. In 2021 alone, Amazon spent approximately \$32.6 billion on marketing.⁴
5. Amazon itself derives a substantial financial benefit from the sale of goods on its platform

¹ Where a defined term is referenced herein but not defined, it should be understood as it is defined in the Glossary in the Complaint or accompanying Memorandum of Law.

² See Amazon.com, Inc., Annual Report (Form 10-K) (Feb. 4, 2022)

³ STOCK ANALYSIS (last visited Jul. 8, 2024), <https://stockanalysis.com/stocks/amzn/market-cap/>.

⁴ Daniel Pereira, *Is Amazon Profitable?*, THE BUSINESS MODEL ANALYST (Jan. 30, 2023), <https://businessmodelanalyst.com/is-amazon-profitable/>.

by third-party sellers, such as Defaulting Defendants. In 2022, Amazon reported third-party seller service revenue of \$117.7 billion, representing 23% of Amazon's total revenue.⁵

6. Defaulting Defendants opened User Accounts on Amazon through which they created their Merchant Storefronts which they used to sell and/or offer for sale Counterfeit Products.
7. Amazon facilitates the advertisement, shipment, offering for sale and/or sale of Counterfeit Products to New York by Defaulting Defendants.
8. Amazon regularly conducts, transacts and/or solicits business in New York and derives substantial revenue from goods and/or services used and/or consumed in New York specifically in connection with the unlawful conduct by Defaulting Defendants, which has caused injury to Plaintiff in New York.
9. In its initial investigation in this action, Epstein Drangel specified a shipping address to the New York Address and verified that each and every Defaulting Defendant was able, through Amazon, to provide shipping to the New York Address.
10. Further, Epstein Drangel made purchases of Counterfeit Products from a representative sampling of Defendants, including a handful of the Defaulting Defendants, and received such Counterfeit Products to the New York Address.
11. Amazon holds and transfers funds derived from its seller's Merchant Storefronts to the sellers and/or bank accounts that its sellers identify to Amazon.
12. On December 3, 2021, Amazon provided Plaintiff with the expedited discovery ordered in the TRO, which included, *inter alia*, the amount of frozen funds in each and every

⁵ Tony Owusu, *Here's How Much Amazon Takes From Every Third-Party Sale*, TheStreet (Feb. 14, 2023), <https://www.thestreet.com/investing/heres-how-much-amazon-takes-from-every-third-party-sale#:~:text=A%20Big%20Part%20of%20the,totaled%2043%25%20at%20%24220%20billion>.

Defaulting Defendant's Amazon account.

13. The funds in Defaulting Defendants' Amazon accounts remained frozen by Amazon throughout the pendency of the action pursuant to the PI Order.
14. On June 14, 2024, Plaintiff filed its Motion for Default Judgment. (Dkts. 57-60).
15. On July 3, 2024, a final default judgment and permanent injunction order was entered against each and every Defaulting Defendant, awarding Plaintiff damages in the amount of \$75,000.00 against each and every Defaulting Defendant. Attached hereto as **Exhibit A** is a true and correct copy of the Final DJ Order.
16. On the same day, July 3, 2024, Plaintiff's counsel served a restraining notice on Amazon in connection with the Final DJ Order. Attached hereto as **Exhibit B** is a true and correct copy of the restraining notice served on Amazon.
17. As of the date of this declaration, the entire amount against each Defaulting Defendant remains due and unpaid.
18. Amazon's counsel has informed Plaintiff's counsel of its position as to the Plaintiff's instant motion, namely, that Amazon agrees (1) not to challenge personal jurisdiction, and (2) to comply with the turnover order sought by Plaintiff herein. Amazon has further given Plaintiff permission to include the same in the instant declaration and accompanying memorandum of law.

I declare under the penalty of perjury under the laws of the United States of America that to the best of my knowledge the foregoing is true and correct.

Executed on this 8th day of July 2024 in New York, New York.

By: 
Gabriela N. Nastasi